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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,489	02/20/2004	Gregg S. Wilson	HCMT / 03	2133

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EXAMINER

BUI, LUAN KIM

ART UNIT PAPER NUMBER

3728

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,489

Applicant(s)

WILSON, GREGG S.

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-33 and 36-41 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-11, 13-33 and 36-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/9/04 & 4/11/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3728

Claim 12 has been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on 8/21/2006.

Applicant indicates that “claims 6, 20, 33 and 36 being generic” is noted. However, since claim 6 recites “means associated with one of the panels ...”, claim 20 recites “a securing element secured to one of the panels ...” and claim 36 recites “means associated with one of the panels...” and since Figure 4 has no such the securing element secured to one of the panels or associating means. Claims 6, 20 and 36 are not generic to Figure 4.

Applicant traversed the restriction (species) requirement as indicated in the remarks are noted. They are not persuasive because the species are independent or distinct and the species as claimed are either not capable of use together or can have a materially different design, mode of operation, function or effect or the specification does not states that the species are obvious over one another. Also, because the species are not useable together they are by definition independent inventions. Once the claims are determined to be directed to mutually patentable inventions and the office requires an election of species, the appropriate traverse is an admission on the record that applicant does not find the claimed species are patentable, one over the other. Having not done so the reasons presented are not relevant.

The requirement is still deemed proper and is therefore made **FINAL**.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Geschwind (5,121,864). Geschwind discloses a pouch/disposable cover comprising a pair of panels (12, 14) having side edges, a top edge and a bottom edge. The side and bottom edges of the panels coupled together to form a cavity therebetween sized to closely receive an item. The panels having an opening at their top edges (Figures 4-5) and means (24, 26) associated with one of the panels/securing element secured to one of the panels for securing the panels together at the opening with the item inside the cavity. The pouch of Geschwind is inherently capable of holding a patient control box and capable of being disposable. Geschwind further discloses at least one of the panels (32) made from plastic material.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 9, 20, 36 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins (2,295,143) or Calciano (5,638,955) in view of Harden (6,533, Geschwind). Watkins

Art Unit: 3728

discloses a bag/disposable cover (20) comprising a panel folded along a fold line (41) to form a pair of panels with each panel having side edges and a top edge. The side edges of the panels coupled together to form a cavity (21) therebetween sized to closely receive an item. The panels having an opening at their top edges and means (30a, 30b) associated with one of the panels for securing the panels together at the opening with the item inside the cavity. Calciano discloses a holder/disposable cover (10) comprising a first panel (a front panel of a body 12) and a second panel (a rear panel of the body 12) connected with the first panel to form a cavity therebetween sized to closely receive an item (11). The panels having an opening at their top edges and means (20-23) associated with one of the panels for securing the panels together at the opening with the item inside the cavity. Watkins or Calciano also discloses the other claimed limitations except for the pair of panels comprises a first panel and a second panel with each panel includes side edges, a top edge and a bottom edge and the side and bottom edges being coupled together to form the cavity.

Harden teaches a pouch/disposable cover (10) comprising a first panel (20) and a second panel (30) with each panel having side edges, a top edge and a bottom edge and the side and bottom edges coupled (8) together to form a cavity for receiving an item. It would have been obvious to one having ordinary skill in the art in view of Harden to modify the cover of either Watkins or Calciano so the cover comprises a first panel and a second panel with each panel includes side edges, a top edge and a bottom edge and the side and bottom edges coupled together to form the cavity to facilitate forming the cover and since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill

Art Unit: 3728

in the art. The cover of either Watkins or Calciano is capable for receiving a patient bed hand control box.

As to claim 9, Watkins further discloses one of the panels includes an extending flap portion (24, 24a) sized to fold over the cover opening and into overlapping relationship with a portion of the other panel. Calciano further discloses one of the panels includes an extending flap portion (15, 16) sized to fold over the cover opening and into overlapping relationship with a portion of the other panel.

5. Claims 13-16 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 6 and 20 above, and further in view of Schneck (6,338,572). Watkins discloses the flap comprises two ears (24, 24a) and Calciano also discloses flap (14) comprises two ears (15, 16). However, either Watkins or Calciano fails to show a perforated line and the perforated line being separated to define the two ears. Schneck shows a bag (10) comprising a flap (24) having a perforated line (30) and the perforated line may be separated to define a pair of ears (28, Figure 4). It would have been obvious to one having ordinary skill in the art in view of Schneck to modify the flap of the cover of either Watkins or Calciano so the flap includes a perforated line and the perforated line is separated to define the two ears to reduce the cost of manufacture.

6. Claims 7, 8, 10, 11, 26-29, 32, 37, 38, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to the claims above, and further in view of Huffer (5,499,713). Either Watkins or Calciano fails to show the securing means being defined

Art Unit: 3728

by an adhesive and a removable tape overlying the adhesive. Huffer teaches a cover (10, 12) comprising securing means including an adhesive (26) on a surface of the cover and a removable tape (28) overlying the adhesive. It would have been obvious to one having ordinary skill in the art in view of Huffer to modify the securing means of either Watkins or Calciano so the securing means comprise adhesive and a removable tape overlying the adhesive for better securing the item.

7. Claims 17, 18, 24, 25, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 13, 22 and 27 above, and further in view of Tzeng (6,471,056). The cover of Watkins or Calciano as modified further fails to show a notch therein. Tzeng teaches in the embodiment of Figure 7, a cover having a notch (74). It would have been obvious to one having ordinary skill in the art in view of Tzeng to modify the cover of Watkins or Calciano so the cover includes a notch to allow the user access to the item within the cover.

8. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tzeng (6,471,056) in view of Harden (6,533,111). Tzeng discloses a cover in the embodiment of Figure 7 having all the limitations of the claims except for the cover being formed from a first panel and a second panel with each panel includes side edges, a top edge and a bottom edge and the side and bottom edges being coupled together to form the cavity. Harden teaches a pouch/disposable cover (10) comprising a first panel (20) and a second panel (30) with each panel having side edges, a top edge and a bottom edge and the side and bottom

Art Unit: 3728

edges coupled (8) together to form a cavity for receiving an item. It would have been obvious to one having ordinary skill in the art in view of Harden to modify the cover of Tzeng so the cover comprises a first panel and a second panel with each panel includes side edges, a top edge and a bottom edge and the side and bottom edges coupled together to form the cavity to facilitate forming the cover and since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. The cover of Tzeng is capable for receiving a patient bed hand control box.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb
September 21, 2006



Luan K. Bui
Primary Examiner
Art Unit 3728